



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
OFFICE OF JESSICA J. LYUBLANOVITS
CLERK OF COURT

June 10, 2015

**REQUEST FOR COMMENTS ON PROPOSED REVISIONS TO THE
LOCAL RULES OF THE NORTHERN DISTRICT OF FLORIDA**

The United States District Court for the Northern District of Florida invites public comments on proposed changes to the Local Rules. This is the first major revision of the Local Rules since 1995. Comments may be submitted to Jessica J. Lyublanovits, Clerk of Court, by email sent to LocalRule_Comments@flnd.uscourts.gov or through the link provided on the court's website at www.flnd.uscourts.gov. The deadline to submit comments is **July 15, 2015**.

The most significant changes include the following.

Rule 2.1 is new and includes definitions that apply to all the rules. The goal is to promote clarity. Under Rule 2.1(F), references in other rules to an "attorney" include a party proceeding *pro se* unless the context clearly indicates the contrary. This has allowed deletion of cumbersome references to *pro se* parties in other rules.

Rule 5.1(C) adds a requirement that filings use 14-point font. This matches the requirement for Eleventh Circuit filings and is intended to make papers easier to read.

Rule 5.5 is new and sets out procedures for filing materials under seal.

Rule 6.1 allows the parties to stipulate, without a court order, to extend a deadline for responding to a specific discovery request or for making a Federal Rule of Civil Procedure 26 disclosure, so long as the extension does not interfere with the time for completing all discovery, submitting or responding to a motion, or trial. This accords with the Federal Rules of Civil Procedure but departs from prior practice in the District. The goal is to save attorney and judge time.

Rule 7.1 retains the requirement for an attorney conference before filing a motion, still with limited exceptions. Rule 7.1(B) adds details intended to require a meaningful conference—not just a last-minute email or other ineffective effort. Rule 7.1(F) retains the 25-page limit on memoranda supporting or opposing a motion and adds a prohibition on tendering a longer memorandum before obtaining leave to do so. The rule retains the prohibition on reply memoranda (except on summary-judgment motions, as addressed below) and prohibits tendering a reply memorandum before obtaining leave to do so. Rule 7.1(J) authorizes and establishes limits on notices of

supplemental authority; the rule generally tracks Federal Rule of Appellate Procedure 28(j).

Rule 11.1(A) makes a substantial change on membership in the District's bar. Only members of the Florida Bar are eligible. Previously, an attorney who was a member in good standing of another state's bar could become a member of the District's bar, even without being a member of the Florida Bar. Under the new rule, an attorney who is not a Florida Bar member will be allowed to appear only *pro hac vice*. The District invites comments not only on this proposed change but also on whether the District should grandfather attorneys who became members of the District's bar under the prior rule but are not members of the Florida Bar. Note that none of this affects the prohibition on the unauthorized practice of law—with limited exceptions, a Florida resident could not before and still cannot practice law in Florida without being a member of the Florida Bar.

New Rule 11.1(G)(3) automatically suspends or removes from the District's bar an attorney who is suspended or disbarred from the Florida Bar. New Rule 11.1(G)(2) requires an attorney to give notice of any jurisdiction's suspension or disbarment.

Rule 26.2 retains the general approach to discovery in criminal cases. The rule conforms time periods to the revised counting rules in Federal Rule of Criminal Procedure 45 and changes some of the periods. New Rule 26.2(G)(5) addresses specific kinds of protected material.

Rule 54.1 still provides that attorney's fees will be awarded only when contemporaneous time records are maintained. But the rule drops the requirement to file the attorney's fee records each month during the pendency of a case; the records are to be filed only when necessary to decide a motion for a fee award.

Rule 56.1 changes summary-judgment procedures. First, the rule drops the list-and-respond procedure—the requirement for a separate statement of allegedly undisputed facts and a specific response to the statement. Instead, the facts are to be set out as part of the supporting and opposing memoranda, as was done prior to adoption of the list-and-respond procedure (and as is routinely done, for example, in appellate briefs or in support of or opposition to other motions). During the recent revision of Federal Rule of Civil Procedure 56, the Advisory Committee considered adding a list-and-respond procedure and decided against it. An example of the comments opposing the procedure was a letter from Chief Judge John W. Sedwick of the District of Alaska, who routinely sat in one district that followed the procedure and another that did not. A copy of Judge Sedwick's letter is available on the Northern District of Florida website. Judge Sedwick estimated that adjudicating a summary-judgment motion routinely took up to twice as long when the list-and-respond procedure was in place, with no change in outcomes. Dropping the list-and-respond procedure is intended to reduce the attorney and judge time devoted to summary-judgment motions.

Rule 56.1(C) increases to 21 days the time to respond to a summary-judgment motion. Rule 56.1(D) allows a reply memorandum in support of a motion, limited to 10

pages, and allows 7 days for its filing. Rule 56.1(E) requires pinpoint record citations.

Rule 77.2 allows attorneys to bring into the courthouse electronic devices, including cell phones, tablets, and laptops. The rule regulates their use. The rule addresses media requests to bring in electronic devices.

Rule 88.1 requires any sentencing memorandum to be filed at least 3 days before a sentencing hearing.

Rule 88.2 incorporates by reference the local patent rules of the Northern District of Georgia.

The revisions are the result of work by separate subcommittees on civil and criminal rules. The District's judges have modified some of the subcommittee proposals and have approved publication of the entire set of rules for public comment. The members of the Local Rules Committee's Subcommittee on Civil Rules include:

Judge Robert L. Hinkle, chair
Judge Gary R. Jones
Jessica J. Lyublanovits, Clerk of Court
Gwendolyn P. Adkins
Philip A. Bates
James Nixon Daniel III
David McKinnon Delaney
Edward P. Fleming
Jonathan Alan Glogau
Pam Moine
Michael Patrick Spellman
Timothy M. Warner

The members of the Local Rules Committee's Subcommittee on Criminal Rules include:

Judge C. Roger Vinson, chair
Judge Elizabeth Timothy
Jessica J. Lyublanovits, Clerk of Court
Barry William Beroset
Christopher P. Canova
Thomas Marshall Findley
Robert Stephen Griscti
Stephen M. Kunz
Pam Lassiter
Randall Lockhart
David Lee McGee
Gilbert Alden Schaffnit
Dustin Scott Stephenson